

FILED 11 MAR 03 1351 USDC ORP

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

GARY EARL MAIXNER, et al.,

Civ. No. 10-3037-CL

Plaintiffs,

v.

BANK OF AMERICA HOME LOANS,
et al.,

ORDER

Defendants.

PANNER, District Judge:

Magistrate Judge Mark D. Clarke filed a Report and Recommendation, and the matter is now before this court. See 28 U.S.C. § 636(b)(1)(B), Fed. R. Civ. P. 72(b). Plaintiffs have filed objections. I have reviewed the file of this case de novo. 28 U.S.C. § 636(b)(1)(C); McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc., 656 F. 2d 1309, 1313 (9th Cir. 1981).

After reviewing plaintiffs' complaint, I agree with Magistrate Judge Clarke that the RICO claim must be dismissed with prejudice for failure to state a claim. I also agree that plaintiffs' TILA claim for rescission must be dismissed with

prejudice because it is barred by TILA's statute of limitations.
I find no error in the Report and Recommendation.

CONCLUSION

Magistrate Judge Clarke's Report and Recommendation (#40) is adopted. Plaintiffs' complaint is dismissed without prejudice as to all defendants, except as to the RICO and TILA rescission claims, which are dismissed with prejudice. Plaintiffs may file an amended complaint within thirty days of the date of this order.

IT IS SO ORDERED.

DATED this 3 day of March, 2011.


OWEN M. PANNER
U.S. DISTRICT JUDGE